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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,923	12/02/2003	Steven Tu	42P10708C	4736

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EXAMINER

BONZO, BRYCE P

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/726,923	<b>Applicant(s)</b> TU ET AL.	
	<b>Examiner</b> Bryce P. Bonzo	<b>Art Unit</b> 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/2/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 11, 13 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 6-10, 12, 14-18 and 20-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **NON-FINAL OFFICIAL ACTION**

### ***Status of the Claims***

Claims 1, 11 and 19 are rejected under 35 USC §101, Non-Statutory Double Patenting

Claims 1-3, 5, 11, 13 and 19 are rejected under 35 USC §102.

Claims 2 and 11 are objected to based on minor informalities.

Claims 4, 6-10, 12, 14, 15-18 and 20-25 are objected to while containing allowable matter.

Claims 26-30 are allowed.

### ***Objections to the Claims***

Claims 2 and 11 are objected as being substantial duplicates. Claim 11 is constructed solely from claims 1 and 2, and minor grammatical alterations. Should this application pass to Allowance, one of the claims must be cancelled.

### ***Rejections under 35 USC §101, Non-Statutory Double Patenting***

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re

Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claims 18, 22 and 28 of patent # **6684346** contains every element of claims 1, 11 and 19 of the instant application and as such anticipates claims 1, 11 and 19 of the instant application.

### ***Rejections under 35 USC §102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 11, 13 and 19 are anticipated by Batchelor et al. (United States Patent No. 6,189,117 B1).

As per claim 1, Batchelor discloses:

An apparatus comprising:

    multiprocessing circuitry to provide a plurality of processing elements (column 6, line 19);

    a machine check abort handling mechanism to quiet the plurality of processing elements in response to a machine check abort exception condition (column 6, lines 26-33), and to permit at least one processing element of the plurality of processing elements to execute first exception handler responsive to the machine check abort exception condition and to attempt a recovery (column 7, lines 7-13).

As per claim 2, Batchelor discloses:

The apparatus of claim 1 wherein the machine check abort handling mechanism permits a second processing element of the plurality of processing elements to continue execution responsive to the attempted recovery of said at least one processing element being a success (column 7, lines 7-36).

As per claim 3, Batchelor discloses:

The apparatus of claim 1 wherein the plurality of processing elements are quieted by permitting scheduled operations to complete (column 6, lines 60-63).

As per claim 5, Batchelor discloses:

The apparatus of claim 1 which, wherein the machine check abort handling mechanism permits a second processing element to execute a second exception handler responsive to the identified machine check abort exception condition (column 8, lines 47 through column 9, line 24).

As per claim 11, Batchelor discloses:

An apparatus comprising:

    multiprocessing circuitry to provide a plurality of processing elements (column 6, line 19);

    a machine check abort handling mechanism to quiet the plurality of processing elements responsive to a machine check exception condition (column 6, lines 26-33);

    a first processing element of the plurality of processing elements to attempt a recovery responsive to the machine check abort exception condition (column 7, lines 7-13); and

    a second processing element of the plurality of processing elements to continue responsive to the attempted recovery of the first processing element being a success (column 7, lines 7-26).

As per claim 13, Batchelor discloses:

The apparatus of claim 11, wherein the second processor is also to attempt a second recovery responsive to the machine check abort exception condition (column 8, lines 47 through column 9, line 24).

As per claim 19, Batchelor discloses:

A system comprising:

    multiprocessing circuitry to provide a plurality of processing elements (column 6, line 19);

    communication circuitry to signal the plurality of processing elements to quiet activity, said signal being responsive to a machine check abort exception condition (column 16, lines 26-33); and

    one or more storage medium accessible at least to a first processing element of the plurality of processing elements, said one or more storage medium having an executable exception handler stored thereon, which, when accessed by the first processing elements to check error conditions responsive to the machine check abort exception condition, and to attempt a recovery (column 7, lines 7-13).

***Allowable Subject Matter***

The following is the reason for allowance and allowable subject found in the pending claims. Applicant is reminded that the claims are viewed as a whole, considering all limitations from parent claims and reasonable interpretation from the specification and prosecution of the application and its parent. Any modification to the claim or redefining of terms during prosecution may jeopardize this indication of allowability.

Claims 4 and 12 describe the use of a HALT instruction which is clearly differentiated from Batchelor which makes use of masking mechanism, hiding the quieting of the bus from the second processor.

Claims 6-10 and 15-18 describe the recovery operations of the second processor as being mutually exclusive of first processor. Batchelor discloses the first and second processors conferring and double checking each others actions.

Claims 14 and 20-22 and 26-30 claim a synchronization aspect between the processors after recovery, however Batchelor discloses not such synchronization as the processors appear to operate independently.



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Claim 23 describes the use of a broadcast network, which is incompatible with the bus system of Batchelor.

Claim 24 describes the system being implemented on a single die, which would not have been obvious in view of the discrete implementation of Bachelor.

Claim 25 describes mutually exclusive access to the executable exception handler by the processors which is irrelevant to Batchelor.

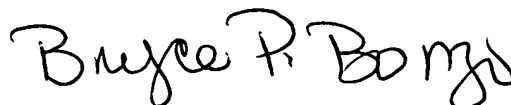
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P. Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Bryce P. Bonzo". The signature is written in a cursive, flowing style.

Bryce P Bonzo

Primary Examiner

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